

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

MONICA PEDRAZA,

Plaintiff,

Case No. 5:20-cv-567

v.

NATIONAL MANAGEMENT RECOVERY CORP.,

Defendant.

COMPLAINT

The Plaintiff, Monica Pedraza (“Plaintiff”), hereby sues the Defendant, National Management Recovery Corp. (“Defendant”), and alleges:

Parties, Jurisdiction and Venue

1. Plaintiff is an individual and a resident of San Antonio, Texas.

2. Defendant is a foreign corporation with its principal place of business in Coral Springs, Florida.

3. This is an action brought pursuant to 15 U.S.C. 1692k. Accordingly, this Court has jurisdiction over this action under 28 U.S.C. § 1331 because this is a civil action arising under the laws of the United States.

4. This Court has supplemental jurisdiction over the state law claim in this action under 28 U.S.C. § 1337 because the state law claim is so related to the claim over which this Court has original jurisdiction that they form part of the same case or controversy under Article III of the U.S. Constitution.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1331(b)(2) because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district.

6. All conditions precedent to bringing this action have occurred, been performed, or have been waived.

Common Facts

7. Defendant was engaged as a debt collector to collect a debt from the Plaintiff that was incurred for personal and household purposes.

8. Defendant has called Plaintiff numerous times in an attempt to collect this debt.

9. Defendant caused the Plaintiff's telephone to ring repeatedly and continuously with intent to annoy, abuse, and harass the Plaintiff. Specifically, Defendant has called Plaintiff up to six times a day every day since November 2019. This conduct violated 15 U.S.C. § 1692d(5).

10. Defendant often called Plaintiff multiple times in a row in immediate succession, with multiple calls being placed one right after the other. This conduct violated this statement violated 15 U.S.C. § 1692d(5).

11. During these calls, the Defendant used a name that is not the true name of the Defendant's business. Specifically, the Defendant used the name "Receivables Management Services", which is not the true name of Defendant's business. This conduct violated 15 U.S.C. § 1692e(14).

12. During one call, Defendant's representative made the following statements to Plaintiff: "If you don't pay today, someone will come to your house to serve you with a lawsuit."

Since Defendant did not intend or have the legal right to have someone serve Plaintiff with a lawsuit, this statement violated 15 U.S.C. § 1692e(5) and 15 U.S.C. § 1692e(10).

13. During another conversation, Defendant's representative stated: "You have committed fraud. We will sue you for fraud." This statement violated 15 U.S.C. § 1692e(7) and 15 U.S.C. § 1692e(10).

14. During another conversation, Defendant's representative told Plaintiff's husband that: "I need to speak with her or else I will come to your house to serve her with paperwork for a lawsuit."

15. Defendant also called Plaintiff's sister and uncle and disclosed information to each of them regarding Defendant's alleged debt. This conduct violated 15 U.S.C. § 1692c(b).

16. During all of these calls, Defendant also failed to disclose the name of the person to whom the debt had been assigned.

17. Defendant directed the above-described phone calls to Plaintiff in the Western District of Texas, and Plaintiff received the calls in the Western District of Texas.

COUNT I – VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

18. Plaintiff incorporates and realleges paragraphs 1 through 17 as if stated fully herein.

19. The conduct of Defendant constituted violations of 15 U.S.C. § 1692c, 15 U.S.C. § 1692d, 15 U.S.C. § 1692e and 15 U.S.C. § 1692f.

20. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiff has suffered actual damages, including mental anguish, embarrassment, humiliation, loss of time, and financial harm, including mental anguish, embarrassment and humiliation in the amount of \$5,000.00.

WHEREFORE, the Plaintiff, Monica Pedraza, hereby demands judgment against the Defendant, National Management Recovery Corp., for actual damages, statutory damages in the amount of \$1,000.00, court costs, reasonable attorney's fees, injunctive relief, and any other further relief this Court deems just and proper.

COUNT II – VIOLATION OF THE TEXAS DEBT COLLECTION LAW

21. Plaintiff incorporates and realleges paragraphs 1 through 17 as if stated fully herein.

22. This claim is brought pursuant to Section 392.403 of the Texas Finance Code.

23. The conduct of Defendant constituted violations of Sections 392.301, 392.302, 392.304, of the Texas Finance Code.

24. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiff has suffered actual damages, including mental anguish, embarrassment, loss of time, and financial harm.

WHEREFORE, the Plaintiff, Monica Pedraza, hereby demands judgment against the Defendant, National Management Recovery Corp., for actual damages, court costs, reasonable attorney's fees, injunctive relief, and any other further relief this Court deems just and proper.

Demand for Attorney's Fees & Costs

Pursuant to 15 U.S.C. § 1692k(a)(3) and Section 392.403 of the Texas Finance Code, Plaintiff Monica Pedraza hereby demands an award of the attorney's fees and costs incurred in this matter.

Demand for Jury Trial

Plaintiff Monica Pedraza hereby demands a jury trial on all claims asserted in this Complaint and otherwise later asserted in this lawsuit.

DATED: May 7, 2020.

Respectfully submitted,

/s/ Joshua A. Mize
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